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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/339,325 | 06/23/1999 | YOAV SHOHAM | ARIBP032 | 2458 |

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| EXAMINER |
|---|
| VAN BRAMER, JOHN W |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3622 | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 09/339,325 | SHOHAM ET AL. |
| | Examiner | Art Unit | |
| | JOHN VAN BRAMER | 3622 | |

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

**Period for Reply**

> A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
> WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
>   after SIX (6) MONTHS from the mailing date of this communication.
> - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
> - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
>   Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
>   earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on <u>21 July 2008</u>.
2a) ☐ This action is **FINAL**.　　2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
　　　closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) <u>11-13,22 and 24-43</u> is/are pending in the application.
　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>11-13, 22 and 24-43</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
　　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
　　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
　　a) ☐ All　b) ☐ Some * c) ☐ None of:
　　　1. ☐ Certified copies of the priority documents have been received.
　　　2. ☐ Certified copies of the priority documents have been received in Application No. _____.
　　　3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
　　　　　application from the International Bureau (PCT Rule 17.2(a)).
　　* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### Continued Examination Under 37 CFR 1.114

1.     A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 21, 2008 has been entered.

### Response to Amendment

2.     The amendment filed on July 21, 2008, has amended Claims 13, 22, 28, 31, 36 and 39. No claims were cancelled and no new claims were added. Thus, the currently pending claims considered below remain Claims 11-13, 22 and 24-43.

### Claim Rejections - 35 USC § 102

3.     The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the

United States and was published under Article 21(2) of such treaty in the English language.

4.    Claims 11-13, 22 and 24-43 are rejected under 35 U.S.C. 102(e) as being

anticipated by <u>Woolston</u> (U.S. Patent Number: 5,845,265).


Claims 22, 28, and 36: <u>Woolston</u> discloses a universal auction specification system,

method of managing the trading of goods auctioned by auction participants, and

computer program product for managing the trading of goods auctioned by auction

participants comprising:

a.  A market specification console (posting terminal 700) configured to receive at

    least one market protocol from a user to dictate the behavior of a universal

    auction system, the at least one market protocol including a customizable set of

    at least one market phase, wherein the market phase is defined by one or more

    user selectable trading primitives that dictate the behavior of one or more

    components in a programmable auction server. (Col 4, lines 10-37; Col 5, line 48

    through Col 6, line 53; Col 10, lines 3-18; and Col 15, line 23 - Col 16, line 58).

b.  A programmable auction server (market maker computer 800) in communication

    with the market specification console, the programmable auction server to

    receive the at least one market protocol defined by the market specification

    console, the programmable auction server to implement the protocol to deploy

    the universal auction system and to manage trading of at least one good

auctioned by at least one auction participant in the universal auction system. (Col

4, lines 39-58; Col 5, line 48 through Col 6, line 53; and Col 14, lines 51-63).

Claims 11, 29, and 37: Woolston discloses a system, method, and computer

program for conducting auctions as in Claims 22, 28, and 36 respectively, wherein

the at least one market specification console includes a graphical user interface to

configure the at least one market protocol. (Col 15, line 23 - Col 16, line 58; and

Figure 13).

Claims 12, 30, and 38: Woolston discloses a system, method, and computer

program for conducting auctions as in Claims 11, 29, and 37 respectively, wherein

the at least one market protocol is predefined in parameterized form on the graphical

user interface. (Col 15, line 23 - Col 16, line 58; and Figure 13)

Claims 13, 31, and 39: Woolston discloses a system, method, and computer

program for conducting auctions as in Claims 11, 29, and 37 respectively, wherein

the graphical user interface is configured to allow the user to define arbitrary market

protocols. (The user in Woolston uses the GUI to enter all of the selections

pertaining to the auction when setting up the auction for posting to the auction

server.  These protocols are in both parameterized form, such as category or

subcategory, as well as arbitrary protocols such as reserve price and auction date

and/or time.)(Col 5, line 48 through Col 6, line 53; Col 15, line 23 - Col 16, line 58;

and Figure 13)


Claims 24, 32, and 40:  Woolston discloses a system, method, and computer

program for conducting auctions as in Claims 22, 28, and 36 respectively, wherein

the market phase includes an interval in which at least one transaction occurs. (Col

5, line 48 through Col 6, line 53)


Claims 25, 33, and 41:  Woolston discloses a system, method, and computer

program for conducting auctions as in Claims 22, 32, and 40 respectively, wherein

the transaction is selected from the group including submitting a bit, admitting a bid,

withdrawing a bid, and replacing a bid. (Col 5, line 48 through Col 6, line 53; Col 15,

line 23 - Col 16, line 58)


Claims 26, 34, and 42:  Woolston discloses a system, method, and computer

program for conducting auctions as in Claims 22, 32, and 40 respectively, where in

the phase is terminated by a condition. (Col 5, line 48 through Col 6, line 53)


Claims 27, 35, and 43:  Woolston discloses a system, method, and computer

program for conducting auctions as in Claims 26, 34, and 42 respectively, wherein

the condition is a time period. (Col 5, line 48 through Col 6, line 53)

### Response to Arguments

5.      Applicant's arguments filed July 21, 2008 have been fully considered but they are
not persuasive. The applicant argues that designating the reserve price of an item
and determining whether to list the item in an auction is not the same as receiving
from a user "at least one market protocol", the "protocol including at least one
market phase, wherein the market phase is defined by one or more user selectable
trading primitives that dictate the behavior of one or more components in a
programmable auction server".  However, the reserve price of an item is a trading
primitive that dictates to the auction server when the auction (at least one market
phase) terminates.  Additionally, the auction start date and time as well as the
auction stop date and time are also market protocols the include a market phase and
dictate the behavior of the auction server.  The auction server will not start the
auction or stop the auction until the protocols containing the phases have occurred.
(Col 5, line 48 through Col 6, line 53)

### Conclusion

6.      Any inquiry concerning this communication or earlier communications from the
examiner should be directed to JOHN VAN BRAMER whose telephone number is
(571)272-8198.  The examiner can normally be reached on 6am - 4pm Monday
through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John Van Bramer
/John Van Bramer/
Examiner, Art Unit 3622